

# Minutes



To: All Members of the Community  
Safety & Waste Management  
Cabinet Panel, Chief  
Executive, Chief Officers, All  
officers named for 'actions'

From: Legal, Democratic & Statutory Services  
Ask for: Michelle Diprose  
Ext: 25566

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## COMMUNITY SAFETY & WASTE MANAGEMENT CABINET PANEL MONDAY, 3 JUNE 2019

### ATTENDANCE

#### MEMBERS OF THE PANEL

J Bennett-Lovell, S N Bloxham, M Bright, S J Featherstone, B A Gibson, M A Watkin  
(*substitute for J S Hale*), F R G Hill, T W Hone (*Chairman*), J Billing (*substitute for J G L King*),  
R Smith (*substitute for P V Mason*), N Quinton (*substitute for T J Williams*), C B Woodward  
(Vice Chairman), J F Wyllie

#### OTHER MEMBERS IN ATTENDANCE

D A Ashley, A P Brewster, E Buckmaster, R C Deering, T L F Douris, J S Hale, T C Heritage,  
M B J Mills-Bishop, R M Roberts, J D Williams

Upon consideration of the agenda for the Community Safety & Waste Management  
meeting on Monday 3 June 2019 as circulated, copy annexed, conclusions were reached  
and are recorded below:

*Note: No conflicts of interest were declared by any member of the Cabinet Panel  
in relation to the matters on which conclusions were reached at this meeting.*

#### **Chairman's Announcements:**

- i. Apologies were received from D Lloyd, Police and Crime Commissioner for Hertfordshire;
- ii. The chairman emphasised that the item under consideration was exempt from call- in on the following grounds:
  - b. The Chief Executive certifies that implementation of the decision is critical for service delivery;
  - c. The Chief Legal Officer certifies that the Council would be likely to suffer legal prejudice from a delay in implementation of the decision resulting from the decision being Called-In;
  - d. The Director of Resources certifies that the Council would be likely to suffer financial prejudice from a delay in implementation of the decision resulting from the decision being Called-In;

- e. The Chief Legal Officer certifies that a delay in implementation of the decision resulting from the decision being Called-In would result in the decision being incapable of implementation or meaningful implementation;
- iii. Issues raised at the start of the meeting relating to the invitation of County Councillors to priority setting meetings held in communities with local representatives and the Police should be addressed to the Police and Crime Commissioner at the next meeting of the cabinet panel.

**PART I ('OPEN') BUSINESS**

**ACTION**

**1. MINUTES**

- 1.1 The Minutes of the Cabinet Panel meeting held on 17 May 2019 were confirmed as a correct record and signed by the Chairman, subject to the following amendments, 4.3 to read:  
The Panel were informed the PSCO funding was still matched on a 50/50 basis and was available to parishes and towns. It was noted there were priority setting meetings being held in communities with local representatives and the Police. Members of the panel stated that these meeting were working well in *some districts*.

**2. PUBLIC PETITIONS**

- 2.1 No public petitions were received.

**3. VARIATION TO THE RESIDUAL WASTE TREATMENT CONTRACT**

[Officer Contact:  
Simon Aries, Assistant Director, Transport, Waste & Environmental Management (Tel: 01992 555255); Matt King, Head of Waste Management & Environmental Resource Planning (Tel: 01992 556207); Jo Hawes, Team Leader, Waste Performance and Audit (Tel:01992 555326)]

- 3.1 The Panel received a report to enable them to form an opinion on whether the proposed variation to the Residual Waste Treatment Contract entered into with Veolia ES Hertfordshire Limited (VES) and Hertfordshire County Council on 27 July 2011 for the long term treatment of Hertfordshire's residual Local Authority Collected Waste (LACW) should proceed.
- 3.2 The Panel heard that the Secretary of State (SoS) for Housing, Communities and Local Government had not concluded deliberations on the Planning Inspector's report submitted in February 2019. On 5 February 2019, notification was received stating that a decision would be issued on or before 7 May 2019. The deadline has passed and there has been no decision or revised deadline issued.

**CHAIRMAN'S INITIALS**

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- 3.3 Officers emphasised that the delay in obtaining planning permission for Rye House, arising from the SoS's call in, meant that a decision was unlikely to be received and the necessary challenge period completed (a "Satisfactory Planning Permission") as contractually specified by 30 June 2019 (the "Planning Permission Longstop Date"), hence the need for an extension.
- 3.4 Members heard that if the decision to vary the contract to 30 December 2020 was not taken at the current Planning Permission Longstop date of 30 June 2019, then either party could serve notice for termination on the grounds of planning failure and the Council would have to pay VES £1.37m in termination compensation. In a further scenario the Council might terminate for planning failure, subsequent to which planning permission might be granted in which case VES might still build the Rye House ERF and the Council might lose its access to capacity in it.
- 3.5 Officers emphasised the Council's statutory duty as the Waste Disposal Authority to provide disposal facilities for all of the County's residual Local Authority Collected Waste (LACW). In view of this, if the Contract was terminated due to non extension of the Planning Permission Longstop Date the Council was likely to continue to purchase service contracts for residual waste disposal, however without the Contract there was no certainty on where the waste would be disposed of or the cost, or even if these alternatives would still be available to it.
- 3.6 Officers took Members through the data which evidenced the need for residual waste treatment services including the Energy Recovery Facility (ERF). The current situation was highlighted, i.e. that despite awarding contracts to all bidders for residual waste disposal to cover the period from the end of the existing arrangements in 2020 and 2021 to the point at which Rye House ERF was estimated to be operational, the Council had a 25,000 tonnes shortfall in capacity for residual LACW disposal and would result in an increase in waste being sent to landfill. Members noted the projected costs of residual waste disposal and that Rye House would continue to be value for money over the alternative i.e. £103.6m over 30 years at an exchange rate of £1:€1.15.
- 3.7 During discussion the Panel welcomed the decrease in tonnes per household of LACW for the period 2001/20 -2017/18. Members observed however that, as residual LACW tonnage had remained static since 2016/17, and as 1/3 of residual LACW was food waste, composition data on the residual LACW would have been helpful. Officers clarified that where district and borough authorities provided weekly food waste collection, the 33% of residual LACW that currently comprised food waste reduced to circa 20% and in view of this there was a need to both improve collection infrastructure and target behavioural change to drive improved performance.

- 3.8 The panel commented on:
- the continued difficulty in persuading some sectors of the population to participate in the correct separation of waste in their bins;
  - the need for all authorities in the Hertfordshire Waste Partnership to increase efforts to encourage recycling;
  - the need for and public support for more waste infrastructure versus the difficulty in finding sites that were not objected to;
  - the challenges associated with the provision of recycling facilities for flats and engagement by the residents of these buildings;
  - the need to ensure that all flats had recycling facilities;
  - the need to draw greater public attention to the potential for heat output and electricity generation aspects of Rye House, which could potentially influence public opinion on the project and welcomed the Council's entitlement under the Contract to a share of the income from third parties, material recovery and electricity generation;
  - the necessity to understand the psychology that led to improvement in recycling behaviour in some districts.

3.9 There was concern for the available options should the SoS deny planning permission for Rye House. The chairman observed that there was no indication of there being a reason that the decision should be refused, however the same scenario had not been foreseen with the New Barnfield site. Officers commented that if planning permission was refused for Rye House it was unlikely to be successful for an ERF anywhere else in Hertfordshire. Officers were also constantly assessing all possible options for a 'Plan B,' including solutions used elsewhere in the UK and worldwide. Members' attention was also drawn to the Government's proposed Resources and Waste Strategy for England which was under consultation, the policies from which were likely to be mandatory and if implemented would take place in 2023. Officers confirmed that if planning permission was refused a report would be brought to the panel on the viable options.

3.10 The chairman's wish for a 'Doing the best for Hertfordshire' approach was welcomed by Members who emphasised that success in this hinged on bringing the Districts and Boroughs on board.

**CONCLUSION:**

- 3.11 1. That the Community Safety and Waste Management Panel unanimously recommended to Cabinet that Cabinet:
- 1.1. Approved the variation of the Residual Waste Treatment Contract with Veolia ES Hertfordshire Ltd (VES) to include the matters set out in section 8 of this report which includes extending the Planning Permission Longstop Date to 31 December 2020 subject to the satisfactory conclusion of the legal drafting required to vary the

**CHAIRMAN'S  
INITIALS**

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Contract.

- 1.2. Authorised the Assistant Director – Transport, Waste & Environmental Management to conclude the detailed discussions with VES and drafting of the Contract variation and all associated ancillary documents in consultation with the Chief Legal Officer and the Director of Resources.
2. That the Chief Legal Officer (and in their absence either the Assistant Chief Legal Officer (Environment and Dispute Resolution) or the Assistant Chief Legal Officer (People) be authorised to execute the Contract variation agreement and other necessary documentation referred to in 3.1 as are required to give effect to the above decisions, so far as such power is not already delegated by the County Council’s Constitution.

**4. OTHER PART I BUSINESS**

None.

**QUENTIN BAKER  
CHIEF LEGAL OFFICER**

**CHAIRMAN** \_\_\_\_\_

**CHAIRMAN’S  
INITIALS**

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